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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/07

SPONSOR Feldman LAST UPDATED _____ HB _____

SHORT TITLE Public Financing of Statewide Campaigns SB 799

ANALYST Wilson

REVENUE

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	-13,370.7	-14,415.8	Recurring	General Fund (Unclaimed property)
	13,370.7	14,415.8	Recurring	Other State Funds (Public Election Fund)
	-100.0	-100.0	Recurring	Other State Funds (Unclaimed Property Fund)
	100.0	100.0	Recurring	Other State Funds (Tax Administration Account)

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown	Unknown		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 818, HB 819, HB 820, HB 821, HB 822, HB823, HB 553 and SB 400.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Finance & Administration (DFA)
 Office of the Attorney General (OAG)
 Public Defender Department (PDD)
 Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Bill 799 amends the Voter Action Act Section 1-19A-2 NMSA 1978 and expands public funding of elections to statewide offices of the executive and judicial branches. Currently, this funding is limited Public Regulatory Commission (PRC) elections. Funding will be available based on a formula for contested primaries and contested general elections. In judicial races the funding will only be available for contested elections to the court of appeals and the supreme

court. As such, judicial retention elections are not eligible for this funding.

To become eligible for state funding a candidate must have enough qualifying contributions. For the governor and lieutenant governor this will be 0.02% of the number of voters in the state or about 1,100 contributions. For all other races, it is 0.01% of the number of voters in the state or about 550 contributions. For the PRC it is 0.01% of the voters in that PRC district. No contribution can exceed \$100.00.

Candidates receive funding based on a formula drawn from the number of registered voters in the state and number registered for each party. For the primary candidates receive funding based on the number of persons registered for that party. For the general election the formula is based on all registered voters. For both elections, the amount is listed below.

Governor	\$1.50
Lt. Governor	\$0.25
Comm. of Public Lands	\$0.75
Secretary of State	\$0.15
State Auditor	\$0.15
Supreme Court	\$0.15
Court of Appeals	\$0.15

Once a candidate becomes certified and accepts the state funding, the candidate cannot accept any contributions or loans from another source except the candidate's political party. After both the primary and general election, the candidate must return all unused funds to the Secretary of State within 30 days.

FISCAL IMPLICATIONS

SB 799 changes the distribution of money received under the Uniform Unclaimed Property Act from the General Fund to the Public Election Fund. The TRD fund administrator will retain at least \$100.0 thousand in the Tax Administration Suspense Fund rather than the Unclaimed Property Fund, to pay unclaimed property claims allowed.

TRD notes that State Unclaimed Property collections have been unstable in the past but recently have experienced an upward trend, with about \$11.6 million in FY06 and \$12.5 million projected for FY07. Assuming the same 7.8 % rate of growth for the next two fiscal years, the fund will be \$13.4 million in FY08 and \$14.5 million in FY09. The fiscal impact also assume the minimum retention of \$100.0 thousand for payment of Unclaimed Property claims allowed, in the Tax Administration Suspense Fund proposed by HB-818 instead of the Unclaimed Property Fund.

SIGNIFICANT ISSUES

DFA is skeptical that the State's residents will be well served by diverting existing General Fund revenues to the public financing of campaigns. The Governor has not taken a position on this particular bill

In judicial races the funding will only be available for contested primaries and general elections to the court of appeals and the supreme court. No district, metropolitan, or magistrate elections will qualify. Judicial retention elections are also excluded from this funding.

The Code of Judicial Conduct 21-700A(3)(d) does not allow a judge to “solicit funds for a political organization or candidate.” A committee that is separate from the candidate, but acting on behalf of the candidate, does the fundraising. For example, in a recent contested statewide judicial race, one candidate does not know how many campaign contributors there were because of these limitations.

Recent data estimate there are about 550,000 registered voters in New Mexico. Based on the formula in the bill, a candidate in a contested judicial race will receive about \$82 thousand. Recently, the campaign committee for a candidate in a contested statewide judicial race raised \$300 thousand. It is uncertain if this funding formula in this bill will provide sufficient funding for a judicial candidate to run a viable campaign.

The AOC notes that there is significant concern in judicial campaigns because of the influence of outside organizations that take an active role in a campaign. This law allows state funding to a candidate to be increased as much as doubled if spending by the other candidate and independent organizations exceed the amount the candidate was eligible to receive?

The OAG notes that currently the Voter Action Act provides public funding to the election campaigns of candidates for the office of Public Regulation Commissioner who agree to accept limited campaign contributions from individuals and political action committees. The Act is New Mexico’s experiment with “clean elections”, where PRC candidates hoping to receive public financing must collect a certain number of small "qualifying contributions" (\$5) from registered voters. In return, they are paid a flat sum by the government to run their campaign, and agree not to raise money from private sources. Proponents believe that the “clean election” system will minimize perceived “undue influence” of wealthy contributors over political candidates. Participant candidates forego traditional special interest donations and agree to accept public funding.

This bill would expand coverage of that act to include election campaigns for candidates for any statewide executive department or judicial department office. Those offices could include Governor, Lieutenant Governor, Attorney General, Treasurer, Auditor, Supreme Court Justice etc. Candidate participation is voluntary. The United States Supreme Court in Buckley v. Valeo upheld a federal law imposing campaign contribution limits, but ruled that portions of that law imposing campaign expenditure limits violated the First Amendment’s protections regarding freedom of expression and association.

The bill would prescribe the total amount of \$5.00 contributions the candidates for various offices may accept from individual donors (qualifying contributions which are deposited into the public election fund) based upon percentages of voters within the state. The bill would also prescribe the amounts each candidate would be entitled to receive from the fund, based upon the office sought.

ADMINISTRATIVE IMPLICATIONS

It is not known what the administrative implications are for the SOS as a result of the provisions of this bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 799 relates to HB 818, HB 819, HB 820, 821, 822, 823, HB 553, and SB 400.

POSSIBLE QUESTIONS

The AOC asks if an outside organization comes into a race very late, will additional state funding be available in time for another candidate?

What if a candidate withdraws? Will his replacement receive the money he is entitled to under this act?

DW/mt